

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Cbeyond Communications, LLC</b>	)	
<b>-vs-</b>	)	
<b>Illinois Bell Telephone Company d/b/a</b>	)	
<b>Illinois Bell</b>	)	<b>Docket No. 10-0188</b>
	)	
<b>Formal Complaint and Request for</b>	)	
<b>Declaratory Ruling pursuant to Sections</b>	)	
<b>13-515 and 10-108 of the Illinois Public</b>	)	
<b>Utilities Act</b>	)	

**Exhibit B**

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February 26, 2010

**VIA ELECTRONIC MAIL**

Karl Anderson  
Illinois Bell Telephone Company, d/b/a AT&T Illinois  
225 West Randolph, 25<sup>th</sup> Floor  
Chicago, Illinois 60601

Re: 13-515 Notice Letter and Opportunity to Cure Submitted on Behalf of  
Cbeyond Communications, LLP.

Dear Mr. Anderson:

Pursuant to 220 ILCS 5/13-315(c), this letter provides Illinois Bell Telephone Company with 48-hours notice that, unless the violations detailed herein are not remedied, will result in Cbeyond filing a complaint with the Illinois Commerce Commission seeking declaratory relief and damages. As has been discussed between Cbeyond and Illinois Bell Telephone Company, this matter relates to the improper imposition of nonrecurring charges for work it is not doing. Specifically, Illinois Bell charges Cbeyond to disconnect and fully re-provision a loop (as if it is engages in truck rolls, installing repeaters, doublers and other DS1 outside plant installation activities) when asked to change the transport portion of an Enhanced Extended Loop (EEL). Those charges are not authorized by any statute, tariff, the parties' interconnection agreement, or state and federal rate development and cost recovery rules. Those charges also unlawfully impair the development of telecommunications services competition in Illinois.

As you know, Cbeyond purchases from Illinois Bell Unbundled Network Elements ("UNEs") both individually and in combinations called High Capacity Enhanced Extended Links ("High Capacity EELs"). Cbeyond relies on High Capacity EELs to provide voice and bundled voice/broadband internet services to small and medium-sized business

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customers. The parties' Interconnection Agreement requires that Illinois Bell permit Cbeyond to "connect a Section 251 UNE or a combination of Section 251 UNEs with facilities or services obtained at wholesale from [Illinois Bell] (including access services) and/or with compatible network components or services provided by CLEC or third parties. . . ." ICA, TRO/TRRO Amendment, Section 5.2. The Interconnection Agreement also requires Illinois Bell to, upon request, terminate a High Capacity EEL to a third party's collocation arrangement that meets the requirements of Section 6.3.4. ICA TRO/TRRO Amendment, Section 5.3.

When Cbeyond exercises its rights under the parties' Interconnection Agreement and changes the transport portion of a previously installed High Capacity EEL, Illinois Bell charges Cbeyond nonrecurring charges for both UNE transport as well as UNE Loop even though Illinois Bell makes no change to the UNE Loop portion of the provisioned EEL. There is no legal authority or basis for Illinois Bell's imposition of UNE Loop non-recurring charges in this case. In addition, these actions by Illinois Bell unreasonably and unlawfully restrict Cbeyond's ability to use the third-party transport provider of its choice by unnecessarily and unlawfully increasing Cbeyond's cost to purchase transport service from competitive, third-party transport providers. As a result, Illinois Bell has billed Cbeyond over \*\*\*\*\*Begin Confidential Information \$1,000,000 End Confidential Information\*\*\*\*\* in unlawful loop non-recurring charges over the past five years (in addition to the lawful, transport non-recurring charges that Illinois Bell is entitled to receive to disconnect the old transport and install the new transport.) Despite repeated demands that Illinois Bell cease its imposition of these charges, and repeated demands that Illinois Bell permit Cbeyond to use a third-party carrier without being subject to unlawful non-recurring charges, Illinois Bell refuses to issue credits to Cbeyond and refuses to permit Cbeyond to use a third-party transport provider without the unlawful charges. Illinois Bell's conduct not only impairs Cbeyond's ability to provide local services to its customers and to compete against Illinois Bell, it also impairs the ability of other carriers to provide transport services to Cbeyond and other carriers.

Cbeyond requests that Illinois Bell immediately rescind the nonrecurring Loop charges imposed in these circumstances, issue a credit to Cbeyond in the full amounts that Illinois Bell claims is past due, and agree that it will continue to rearrange the transport portion of a High Capacity EELs without imposing additional Loop nonrecurring charges.

This letter serves as a demand notice related to Illinois Bell's improper refusal to issue the appropriate credits, and to cease imposing unlawful charges. Please be advised that unless we receive notice from Illinois Bell that it will cure its unlawful conduct Cbeyond will

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take formal action before the Illinois Commerce Commission pursuant to Section 13-514 of the Illinois Commerce Commission. Let me clarify also that, while Section 13-515 of the Illinois Public Utilities Act requires a response within 48 hours, in an effort to reach an accord, Cbeyond will permit SBC to provide a written response to this letter on or before 4:00 p.m. on March 5, 2010.

Sincerely,



Henry T. Kelly

C: Greg Darnell, Cbeyond, Director, Carrier Relations (email only)  
William Weber, Cbeyond, Chief Administrative Officer (email only)  
Kitty Drennen, AT&T Carrier Account Manager (email only)  
Dr. James Zolnieriek, Illinois Commerce Commission